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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-1964

STEVEN DAVID KAROL
8156 Andasol Avenue
Northridge, California 91325

A C C U S A T I O N

Respiratory Care Practitioner License No. 9354

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about August 23, 1985, the Respiratory Care Board issued Respiratory Care Practitioner License Number 9354 to Steven David Karol (Respondent). This license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2006, unless renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references

1 are to the Business and Professions Code unless otherwise indicated.

2 4. Section 3710 of the Code states: “The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3,
4 the Respiratory Care Practice Act].”

5 5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and
6 revoke licenses to practice respiratory care as provided in this chapter.”

7 6. Section 3750 of the Code states:

8 “The board may order the denial, suspension or revocation of, or the imposition of
9 probationary conditions upon, a license issued under this chapter, for any of the following
10 causes:

11 “ . . .

12 “(d) Conviction of a crime that substantially relates to the qualifications, functions,
13 or duties of a respiratory care practitioner. The record of conviction or a certified copy
14 thereof shall be conclusive evidence of the conviction. . . .”

15 7. Section 3750.5 of the Code states:

16 “In addition to any other grounds specified in this chapter, the board may deny,
17 suspend, or revoke the license of any applicant or license holder who has done any of the
18 following:

19 “(a) Obtained or possessed in violation of law, or except as directed by a licensed
20 physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or
21 administered to another, any controlled substances as defined in Division 10 (commencing with
22 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 7
23 (commencing with section 4210) of Chapter 9 of this code.

24 “(b) Used any controlled substance as defined in Division 10 (commencing with
25 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 7
26 (commencing with section 4210) of Chapter 9 of this code.

27 “ . . .

28 “(d) Been convicted of a criminal offense involving the consumption or

1 self-administration of any of the substances described in subdivisions (a) and (b), or the possession
2 of, or falsification of a record pertaining to, the substances described in subdivision (a), in which
3 event the record of the conviction is conclusive evidence thereof. . . .”

4 8. Section 3752 of the Code states:

5 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
6 made to a charge of any offense which substantially relates to the qualifications, functions,
7 or duties of a respiratory care practitioner is deemed to be a conviction within the meaning
8 of this article. The board shall order the license suspended or revoked, or may decline to
9 issue a license, when the time for appeal has elapsed, or the judgment of conviction has
10 been affirmed on appeal or when an order granting probation is made suspending the
11 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
12 Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of
13 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
14 indictment.”

15 9. Section 490 of the Code states:

16 “A board may suspend or revoke a license on the ground that the licensee has been
17 convicted of a crime, if the crime is substantially related to the qualifications, functions, or
18 duties of the business or profession for which the license was issued. A conviction within
19 the meaning of this section means a plea or verdict of guilty or a conviction following a
20 plea of nolo contendere. Any action which a board is permitted to take following the
21 establishment of a conviction may be taken when the time for appeal has elapsed, or the
22 judgment of conviction has been affirmed on appeal, or when an order granting probation
23 is made suspending the imposition of sentence, irrespective of a subsequent order under the
24 provisions of Section 1203.4 of the Penal Code.”

25 10. California Code of Regulations, Title 16, section 1399.370, states:

26 “For the purposes of denial, suspension, or revocation of a license, a crime or act
27 shall be considered to be substantially related to the qualifications, functions or duties of a
28 respiratory care practitioner, if it evidences present or potential unfitness of a licensee to

1 perform the functions authorized by his or her license or in a manner inconsistent with the
2 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
3 those involving the following:

4 “ . . .

5 “(c) Conviction of a crime involving driving under the influence or reckless driving
6 while under the influence. . . .”

7 COST RECOVERY

8 11. Section 3753.5, subdivision (a) of the Code states:

9 "In any order issued in resolution of a disciplinary proceeding before the board, the
10 board or the administrative law judge may direct any practitioner or applicant found to
11 have committed a violation or violations of law to pay to the board a sum not to exceed the
12 costs of the investigation and prosecution of the case."

13 12. Section 3753.7 of the Code states:

14 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
15 include attorney general or other prosecuting attorney fees, expert witness fees, and other
16 administrative, filing, and service fees."

17 13. Section 3753.1, subdivision (a) of the Code states:

18 "An administrative disciplinary decision imposing terms of probation may include,
19 among other things, a requirement that the licensee-probationer pay the monetary costs
20 associated with monitoring the probation."

21 CAUSE FOR DISCIPLINE

22 (Conviction of a Crime)

23 14. Respondent is subject to disciplinary action under sections 3750,
24 subdivision (d), 3750.5, subdivision (d), 3752 and 490 of the Code, and California Code of
25 Regulations, Title 16, section 1399.370, subdivision (c), in that he was convicted of a crime
26 substantially related to the qualifications, functions or duties of a respiratory care practitioner. The
27 circumstances are as follows:

28 A. On or about August 10, 2004, in a criminal proceeding entitled

1 *People v. Steven David Karol*, in Superior Court, Los Angeles County, Case Number
2 4VN02043, respondent was convicted by a plea of nolo contendere to the crime of driving
3 under the influence of alcohol or a drug, a violation of Vehicle Code section 23152,
4 subdivision (a).

5 B. On or about August 10, 2004, respondent was placed on probation
6 for three years. The terms and conditions of his probation included payment of \$1,367.00
7 in fines, completion of a three month licensed first-offender alcohol and drug program,
8 restriction of his driving privilege for 90 days, and full restitution to the victims.

9 C. The facts and circumstances surrounding this offense are as follows:

10 On or about April 30, 2004, a Los Angeles police officer received a report
11 of respondent's vehicle hitting multiple parked vehicles. Upon contact with respondent,
12 the officer noticed that he displayed objective signs of intoxication including closing his
13 eyes, lethargic reflexes, slurred speech, poor balance, and there was an odor of marijuana
14 on his breath. Respondent stated he had not consumed any alcoholic beverages, but that he
15 had taken pain pills. Respondent was unable to stand without assistance and could not
16 complete the field sobriety tests. The officer found a plastic bag with a green leafy
17 substance resembling marijuana in respondent's pocket. A Drug Influence Evaluation was
18 completed. Respondent had constricted pupils, burned lips and tongue and pieces of
19 marijuana on his lower lip, was incoherent, and appeared to fall asleep between questions.
20 The officer formed the opinion that respondent was under the influence of narcotic
21 analgesics, cannabis and depressants.

22 Respondent was arrested and charged with driving while under the
23 influence of an alcoholic beverage or drug, a violation of Vehicle Code section 23152,
24 subdivision (a).

25 SECOND CAUSE FOR DISCIPLINE

26 (Use of a Controlled Substance)

27 15. Respondent is subject to disciplinary action under section 3750.5,
28 subdivision (b) of the Code for using the controlled substance marijuana. The facts and

1 circumstances, set forth in Paragraph 14 of this Accusation, are incorporated herein by reference.

2 THIRD CAUSE FOR DISCIPLINE

3 (Possession of a Controlled Substance)

4 16. Respondent is subject to disciplinary action under section 3750.5,
5 subdivision (a) of the Code, in that he possessed the controlled substance marijuana. The facts and
6 circumstances, set forth in Paragraph 14 of this Accusation, are incorporated herein by reference.

7 DISCIPLINE CONSIDERATIONS

8 17. To determine the degree of discipline, if any, to be imposed on Respondent,
9 Complainant alleges that on or about August 14, 2003, in a prior disciplinary action entitled In the
10 Matter of the Accusation Against Steven David Karol before the Respiratory Care Board of
11 California, in Case Number R-1814, respondent was charged with a conviction on October 19,
12 2000, of trespass: injure property and commission of a fraudulent, dishonest or corrupt act based
13 on his failure to disclose the conviction on his license renewal application. The Board issued a
14 decision effective November 28, 2000, in which Respondent's license was publically reprimanded.
15 That decision is incorporated herein by reference.

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28 PRAYER

1 WHEREFORE, Complainant requests that a hearing be held on the matters herein
2 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

3 1. Revoking or suspending Respiratory Care Practitioner License Number
4 9354, issued to Steven David Karol;

5 2. Ordering Steven David Karol to pay the Respiratory Care Board the costs
6 of the investigation and enforcement of this case, and if placed on probation, the costs of probation
7 monitoring;

8 3. Taking such other and further action as deemed necessary and proper.

9 DATED: December 21, 2004

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12 Original signed by Liane Zimmerman for: _____
13 STEPHANIE NUNEZ
14 Executive Officer
15 Respiratory Care Board of California
16 Department of Consumer Affairs
17 State of California
18 Complainant
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